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Security Council

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Letter dated 26 October 2012 from the Chargé d'affaires a.i. of the Permanent Mission of Honduras to the United Nations addressed to the President of the Security Council

On instructions from my Government, I have the honour to write to you in your capacity as President of the Security Council to transmit to you a communication dated 24 October 2012 addressed to you by Arturo Corrales Álvarez, Secretary of State in the Office of External Relations, which contains the second report of the Government of Honduras on the Judgment of the International Court of Justice of 11 September 1992 in the Land, Island and Maritime Frontier Dispute (El Salvador/ Honduras: Nicaragua intervening), dated 24 October 2012 (see annex), and to request that you bring it to the attention of the members of the Security Council and circulate it as a document of the Council.

(*Signed*) Marco A. **Suazo**
Ambassador
Deputy Permanent Representative
Chargé d'affaires a.i.

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Annex to the letter dated 26 October 2012 from the Chargé d'affaires a.i. of the Permanent Mission of Honduras to the United Nations addressed to the President of the Security Council

Tegucigalpa, M.D.C., 24 October 2012

Subject: Report on the judgment of the International Court of Justice of 11 September 1992

I have the honour to write to you in connection with the submission to the Security Council of a new report on the status of the Judgment of the International Court of Justice of 11 September 1992 (Land, Island and Maritime Frontier Dispute between El Salvador and Honduras: Nicaragua intervening) (see enclosure).

As will be recalled, on 18 January 2002 the Government of Honduras submitted a report to the Security Council, together with a request for assistance under Article 94, paragraph 2, of the Charter of the United Nations with regard to the status of the Judgment of the International Court of Justice of 11 September 1992 in the case concerning the Land, Island and Maritime Frontier Dispute between El Salvador and Honduras, Nicaragua intervening; and on 27 August 2002 the Government of El Salvador informed the Council that it had no objection to the Council's taking up the request of the Government of the Republic of Honduras.

Ten years having elapsed since that time, I am pleased to report to the Security Council that, as far as the land border is concerned, once Honduras had exercised its right under the demarcation agreement* to request the Pan American Institute of Geography and History to appoint an arbiter to clear the way for the work of demarcation, which had been paralysed for ten years, the Institute appointed Mr. John Gates, an engineer, as arbiter in April 2003, and he discharged his functions from May 2003 to August 2004.

Following the arbiter's work, the El Poy presidential declaration of 18 April 2006 stated in the first and fourth preambular paragraphs that: (1) the border had been permanently demarcated on the basis of the fixed points defined by the General Peace Treaty and the judgment of the International Court of Justice, and these had been duly positioned on the basis of highly precise geodetic coordinates and identified in situ with markers that complied with established norms and procedures; and (4) on the same date and in the same place a document was drawn up recording that the Special Demarcation Commission had completed the work of installing markers to indicate the fixed points defined by the General Peace Treaty and the judgment of the International Court of Justice.

As regards Conejo Island, on 10 September 2002 the Government of El Salvador filed with the International Court of Justice an application for revision of the 11 September 1992 judgment with respect to the sector containing the mouth of the Goascorán River and appended Conejo Island, at the end of which a beach forms at low tide between the island and the Honduran coast. El Salvador had hoped that, if the Court declared its application admissible, the Court would issue a new ruling adjudicating to it the Goascorán River mouth sector and appended Conejo Island.

* Agreement between the Republics of El Salvador and Honduras to establish the Special El Salvador-Honduras Demarcation Commission to demarcate the border between El Salvador and Honduras, pursuant to the General Peace Treaty of 30 October 1980.

The Court declared this application inadmissible in its judgment of 18 December 2003, and, in the light of the failed application, the Government of El Salvador invoked another artificial claim to Conejo Island, which was rejected by the Government of Honduras.

As to the co-sovereignty regime and the delimitation of the maritime spaces in the Pacific Ocean (territorial sea, exclusive economic zone and continental shelf), the Government of Honduras has expressed its dissatisfaction with the Government of El Salvador over the lack of implementation of the 11 September 1992 judgment in the interior of the Gulf in the undelimited waters, on the closing line or mouth of the Gulf and as regards the projection of its maritime spaces in the Pacific Ocean from the baseline on the closing line of the Gulf of Fonseca and the free movement of shipping between the State of Honduras and the Pacific Ocean in both directions.

The non-implementation of that judgment is in breach of the norms and principles that the international community has been developing with a view to ensuring that States can coexist in harmony. Implementation of the judgments of the International Court of Justice is mandatory and should be carried out in good faith.

The Government of Honduras hereby requests the Security Council to provide the parties, through the intermediation of the Secretary-General, with any assistance they may request or require from the United Nations in implementing the unfulfilled part of the 11 September 1992 judgment and to keep the Security Council informed of the outcome of its actions. I also suggest to the Security Council that it authorize the Secretary-General to give any assistance considered necessary to the trilateral commission established by the fraternal Governments of Honduras, El Salvador and Nicaragua, to enable the negotiation and functioning of the co-sovereignty regime in the Gulf of Fonseca to resume, with a view to the comprehensive social, economic and environmental development of the Gulf. That regime should encompass freedom of shipping in the broadest sense, security and safety, the development of port infrastructure, the maintenance of shipping lanes, joint tourism development, the security of individuals and their property, and the safety of life at sea.

That assistance should be aimed at establishing a trinational authority which will assume responsibility for monitoring and enforcing any rules and regulations that are agreed upon and put in place for the well-being of the population of 1 million plus that converges on the Gulf and for the economic development of the three coastal States, thereby encouraging international maritime commerce.

I therefore request that the United Nations Secretariat, the United Nations specialized agencies and friendly States be called on to provide financial, technical and scientific assistance in the effort to make the Bay of Fonseca a zone of peace and economic growth, accompanied by social development and prosperity for the three coastal nations.

I request that you arrange for this letter and the enclosed report to be circulated as a document of the Security Council.

(*Signed*) Arturo **Corrales Álvarez**
Secretary of State in the Office of External Relations

Enclosure

Second report of the Government of the Republic of Honduras to the Security Council on the Judgment of the International Court of Justice of 11 September 1992 in the Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)

24 October 2012

The report which the Government of Honduras submitted to the Security Council on 18 January 2002 regarding the unjustified delays of the Government of El Salvador in fully implementing the 11 September 1992 judgment of the International Court of Justice dealt with the following subjects: (1) the land border; (2) the legal status of the Gulf of Fonseca, the islands and the maritime spaces in the Pacific Ocean; and (3) the new island claims of El Salvador in the Gulf of Fonseca.

With regard to the first matter, once Honduras had exercised its right under the demarcation agreement** to request the Pan American Institute of Geography and History to appoint an arbiter to clear the way for the work of demarcation, which had been paralysed for 10 years, the Institute appointed Mr. John Gates, an engineer, as arbiter in April 2003, and he discharged his functions from May 2003 to August 2004.

Following the arbiter's work, the El Poy presidential declaration of 18 April 2006 stated in the first and fourth preambular paragraphs that: (1) the border had been permanently demarcated on the basis of the fixed points defined by the General Peace Treaty and the judgment of the International Court of Justice, and these had been duly positioned on the basis of highly precise geodetic coordinates and identified in situ with markers that complied with established norms and procedures; and (4) on the same date and in the same place a document was drawn up recording that the Special Demarcation Commission had completed the work of installing markers to indicate the fixed points defined by the General Peace Treaty and the judgment of the International Court of Justice.

In spite of this, the Government of El Salvador has published official maps that fail to take into account what the International Court of Justice decided in its judgment of 11 September 1992, even though that judgment delimited the frontier on the basis of geographic coordinates and illustrated it in annexed maps.

As early as 1994, in the first official map it published subsequent to the 11 September 1992 judgment of the International Court of Justice, the State of Honduras adjusted its border area to comply with the General Peace Treaty of 30 October 1980 and the judgment.

In line with the above, on 15 May 2012, the President of the Republic issued executive decree PCM 014-2012 in the Council of Ministers. Article 1 of that decree states that the official map of the Republic of Honduras, with the limits determined in the system of territorial administration, shows the municipalities which border on the land frontier with the Republic of El Salvador, including: in Ocotepeque Department: Ocotepeque, Sinuapa and Mercedes; in Lempira Department: Cololaca, Guarita, San Juan Guarita, Valladolid, La Virtud, Mapulaca, Virginia and Piraera; in

** Agreement between the Republics of El Salvador and Honduras to establish the Special El Salvador-Honduras Demarcation Commission to demarcate the border between El Salvador and Honduras, pursuant to the General Peace Treaty of 30 October 1980.

Intibucá Department: San Antonio, Santa Lucía, Magdalena and Colomoncagua; in La Paz Department: Santa Elena, Yarula, Marcala, Cabañas, Santa Ana, Opatoro, Mercedes de Oriente and San Antonio del Norte; and in Valle Department: Caridad, Aramecina, Goascorán and Alianza. Article 3 provides for the establishment of an inter-agency commission for the comprehensive development of the municipalities situated in the border areas adjoining the Republic of El Salvador, whose work will be coordinated by the Secretary of State in the Office of Planning and External Cooperation.

As to the second matter (the legal status of the Gulf of Fonseca, the islands and the maritime spaces in the Pacific Ocean), the Government of Honduras has expressed its dissatisfaction, in a protest to the Government of El Salvador, over the latter's failure to implement the 11 September 1992 judgment in relation to co-sovereignty in the interior of the Gulf in the undelimited waters, on the closing line or mouth of the Gulf and as regards the projection of its maritime spaces in the Pacific Ocean from the baseline on the closing line of the Gulf of Fonseca and the free movement of shipping between the State of Honduras and the Pacific Ocean in both directions.

With regard to the Bay of La Unión, on 7 August 2000 the Government of Honduras sent a diplomatic note to the Government of El Salvador proposing that the two States, as the sole coastal nations of the Bay, should initiate in a full spirit of fraternity the delimitation thereof through the intermediary of special representatives.

In April 2001 the Government of El Salvador replied that the Honduran proposal was receiving due consideration and reflection. On 10 September 2002 El Salvador filed with the International Court of Justice an application for revision of the 11 September 1992 judgment with respect to the sector containing the mouth of the Goascorán River and appended Conejo Island, at the end of which a beach forms at low tide between the island and the Honduran coast. If the Court had admitted its request, El Salvador had hoped that, if the Court declared its application admissible, the Court would issue a new ruling adjudicating to it the Goascorán River mouth sector and appended Conejo Island. The Court declared this application inadmissible in its judgment of 18 December of 2003, and, in the light of the failed application, the Government of El Salvador invoked another artificial claim to Conejo Island, which was rejected by the Government of Honduras.

As regards the matter of the islands in the Gulf, I would remind the members of the Security Council that the International Court of Justice, in paragraph 431 (2) of its 1992 judgment, decided that the islands shown to be in dispute between the parties are: (i) El Tigre; (ii) Menguera and Meanguerita.

It is therefore evident that the other islands, including Conejo Island, were not in dispute. Each State has exercised sovereignty, ownership and jurisdiction without interruption in relation to the other islands.

As to the delimitation of maritime spaces outside the Bay, in the Pacific Ocean (territorial sea, exclusive economic zone and continental shelf), only once since the Court pronounced judgment has it been possible to have a proper discussion on this subject with El Salvador.

Honduras believes that with the valuable assistance of the United Nations Secretariat it may be feasible to establish a true zone of peace, security,

development and marine environment protection in the Gulf of Fonseca, with the 11 September 1992 judgment of the International Court of Justice as its basis.

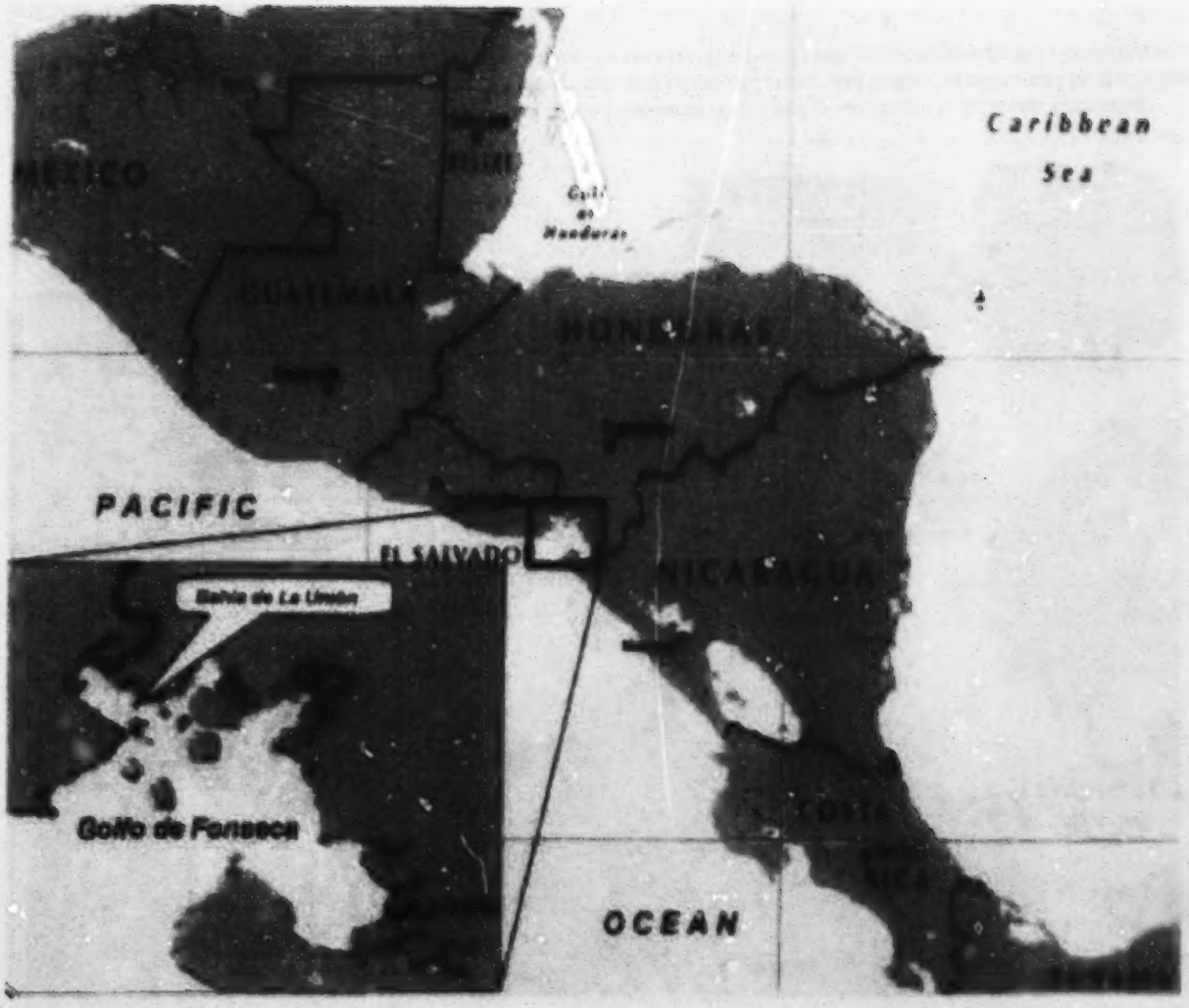
Attachments:

1. Figure showing the location of the Gulf of Fonseca in Central America.

2. Figure showing the Bay of La Unión and Conejo Island, which is appended to the Goascarán sector and is confirmed to be under Honduran sovereignty by the 11 September 1992 judgment of the International Court of Justice, and further so confirmed by the judgment of 18 December 2003 declaring inadmissible the application for revision filed by El Salvador concerning the Goascarán sector.

3. The Honduran coast seen from Conejo Island at low tide: photograph taken by Luis Torres.

Attachment 1



Location of the Gulf of Fonseca in Central America.

Attachment 2

Bay of La Unión and Conejo Island, which is appended to the Goascarán sector and is confirmed to be under Honduran sovereignty by the 11 September 1992 judgment of the International Court of Justice, and further so confirmed by the judgment of 18 December 2003 declaring inadmissible the application for revision filed by El Salvador concerning the Goascarán sector.

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Attachment 3

The Honduran coast seen from Conejo Island at low tide: photograph taken by Luis Torres.